UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/AC.109/2048
18 June 1996

ORIGINAL: ENGLISH

SPECIAL COMMITTEE ON THE SITUATION
WITH REGARD TO THE IMPLEMENTATION
OF THE DECLARATION ON THE GRANTING
OF INDEPENDENCE TO COLONIAL COUNTRIES
AND PEOPLES

FALKLAND ISLANDS (MALVINAS)

Working paper prepared by the Secretariat

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FALKLAND ISLANDS (MALVINAS) 1/

I. GENERAL

1. The Falkland Islands (Malvinas), which is administered by the United Kingdom of Great Britain and Northern Ireland, comprises two large islands known as East and West Falkland, as well as some 200 smaller islands, and has a total area of about 12,173 square kilometres. The Territory is situated in the South Atlantic, about 770 kilometres north-east of Cape Horn and about 480 kilometres east of the South American mainland. South Georgia, located about 1,300 kilometres south-east of the Falkland Islands (Malvinas) group, and the South Sandwich Islands, about 750 kilometres east-south-east of South Georgia, are administered from the Falkland Islands (Malvinas) as a separate Territory; the Governor of the Falkland Islands (Malvinas) acts as Commissioner for South Georgia and the South Sandwich Islands.

2. According to the latest estimates the population of the Territory in 1995 was estimated at 2,000. 2/

II. CONSTITUTIONAL AND POLITICAL DEVELOPMENTS

A. Constitution and Government

3. Detailed information on the constitution and Government of the Territory is contained in previous working papers prepared by the Secretariat (A/AC.109/835 and Corr.1, paras 4-39; A/AC.109/2027 and Corr.1, paras. 3-4). It will be recalled that the Constitution Order of the Territory stipulates, inter alia, that "whereas all peoples have the right of self-determination and by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development and may, for their own ends, freely dispose of their natural resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit and international law; and whereas the realization of the right of self-determination must be promoted and respected in conformity with the provisions of the Charter of the United Nations".

4. On 8 January 1996, Mr. Richard Ralph was sworn in as Governor of the Territory. In his statement at the swearing-in ceremony the Governor reaffirmed the commitment of the United Kingdom to uphold and defend the right of the islanders "to choose the flag under which they wished to be governed". He also reiterated the message from the Prime Minister of the United Kingdom that the British Government's "wishes for a stable and friendly relationship with Argentina would never be at the expense of the sovereignty" of the Territory. Mr. Ralph further stated that the views of the islanders would "be taken fully into account every step of the way over the development of cooperation over fishing and oil". 3/

B. Political developments

5. In December 1995, the Prime Minister of the United Kingdom addressed the following Christmas message to the people of the Territory: 4/

> "This is the sixth message I have broadcast to the Falkland Islands. It gives me a chance to speak to you about recent events and to look at the year ahead. As you know, some two months ago, I held the first meeting with the President of Argentina since the 1982 invasion. Let me tell you why. It is because I want a stable and friendly relationship with Argentina. I am in no doubt that that would be in all our interests and especially yours on the Falkland Islands. So, after 13 years, I thought it was right to resume contact at the highest levels, but that does not and will not change your right to be governed under the flag of your own choosing. That is beyond question and will remain so. The better relationship with Argentina cannot be at the expense of the sovereignty of the Falkland Islands. There's been no change and no compromise in the British Government's position. But, a more sensible relationship should produce benefits for all concerned and that has certainly been true over oil exploration. The launching last October of your licensing round opened a new vista for your economy. Thanks to the agreements reached with Argentina beforehand, the Falkland Islands have been able to invite companies to explore for oil unhindered by the threats of outside interference. And, for similar reasons, I would like to see closer cooperation with Argentina over fisheries. The fishing industry is vital to your economy so it's very important to improve conservation of the fishery resources that you share with Argentina. Fish, alas, pay no attention to national boundaries. I agreed with President Menem to work towards a longer-term fisheries agreement, particularly to protect the stocks of squid. I hope that in the year ahead we will be able to achieve this because, if we can, it will be a most encouraging step forward. Closer to home, in a few weeks' time, you will be once again welcoming the Princess Royal. I know that she's looking forward immensely to it. And I'm sure she'll return, as so many visitors do, with a deep impression of the values and the spirit which have made the Falkland Islanders the people they are. From a wintry Britain to the Falklands in mid-summer, I wish you a Happy Christmas and a Peaceful and Prosperous New Year."

6. Also in December 1995, the following Christmas message was addressed to the people of the Territory by the Minister for Foreign Affairs, International Trade and Worship of Argentina: 4/

> "Another year has passed, and I wish to share with you my assessment of the way in which the South Atlantic agenda has evolved in 1995. Let me start by expressing how satisfied I am that the Argentine and British Governments have managed to reach an understanding on hydrocarbons in the south-west Atlantic. This has been achieved without any prejudice to the respective legal positions, and I am sure it can only bring about benefits for everybody involved. Fisheries conservation is another substantive area which has shown further progress. I believe you will agree with me that politics should not stand in between ourselves and the preservation of our environment. We have once again coordinated measures geared towards

protecting the survival of the Illex squid, a major source of income for the islands. Moreover, we hope to be able to strike an understanding concerning the longer-term conservation of the South Atlantic fisheries. Indeed, 1995 has proved to be a fruitful year. However, there remains one aspect which seems particularly at odds with the developments I mentioned above: a lack of direct trade, communications and transport links between the islands and the main land. Such links would no doubt be of benefit to everybody concerned. You may argue that I am being over-anxious on this issue but let me point out that I am not alone in thinking that development of hydrocarbons, for instance, will be facilitated by greater flexibility in this field, particularly in respect of securing supplies and arranging for support of oil exploration and exploitation activities. It remains very hard to understand why, after all the progress that has taken place, no substantial inroads have been achieved in this matter. Moreover, I am aware that there are many among you who would not mind having a moderate number of visitors to the islands. It is important to rebuild personal contacts and a greater awareness of one another. In this sense, the recent TV reporting on the islands by an Argentine broadcasting channel, the visit of islanders to Argentina and the fifth ABC conference in Oxford have pointed in the right direction.

"Finally, I would like to assure you once again that we do care for your interests and that we do mind about your opinions. So, let us not behave as if a fathomless gulf were keeping us apart. Bearing that in mind, please accept this as a message of peace and trust. I hope you enjoyed your Christmas celebration in the company of family and friends, and I wish you all a Happy and Prosperous New Year."

7. On 3 January 1996, the Government of Argentina issued the following press release:

"As we remember today the 163 years since the time when the Argentine people and authorities were forced out of the Malvinas, the people and Government of Argentina reaffirm anew our country's rights of sovereignty in the Malvinas, South Georgia and the South Sandwich Islands and the surrounding marine areas. The national Government reiterates its constant willingness to find a just, negotiated settlement to the dispute over sovereignty in these territories and marine areas in accordance with international law. Furthermore, it declares once again its intention to continue to move forward with the dialogue with the United Kingdom with the aim of building a relationship of mutual trust and reaching new understandings in the south-west Atlantic. Without prejudice to the foregoing, the Government of Argentina expresses its belief in the desirability of promoting communication and cooperation with the inhabitants of the Malvinas and reiterates its intention to safeguard their interests and well-being."

8. On 4 March 1996, the Ministry of Foreign Affairs, International Trade and Worship of Argentina addressed the following note verbale to the Embassy of the United Kingdom of Great Britain and Northern Ireland in Buenos Aires:

"The Ministry of Foreign Affairs, International Trade and Worship presents its compliments to the Embassy of the United Kingdom of Great Britain and Northern Ireland and has the honour to refer to the claim of unilateral exercise of fisheries jurisdiction in statistical subregion 48.3 of the Convention on the Conservation of Antarctic Marine Living Resources. The Argentine Republic reaffirms its rights of sovereignty in South Georgia and the South Sandwich Islands and the respective marine areas. The Argentine Republic lodges a formal protest against this action by Great Britain and condemns it as contrary to the Convention and general international law. It should be noted that action of this kind can give rise to international liability. As stated in the aide-mémoire transmitted to the Embassy of the United Kingdom in Buenos Aires on 27 February 1996, the Argentine Republic reiterates that the only rules applicable to the utilization of Antarctic marine living resources in the area adjacent to South Georgia and the South Sandwich Islands are those laid down in the Convention on the Conservation of Antarctic Marine Living Resources and such rules adopted by the Commission established under the Convention as are currently in force. In the view of the Argentine Republic, it is relevant to apply the procedures for the peaceful settlement of disputes provided for in article XXV of the Convention on the Conservation of Antarctic Marine Living Resources. To that end, it invites the United Kingdom to consult immediately with a view to initiating the appropriate bilateral negotiations."

9. On 27 March 1996, the Embassy of the United Kingdom in Buenos Aires addressed the following note verbale to the Ministry of Foreign Affairs, International Trade and Worship:

"Her Britannic Majesty's Embassy presents its compliments to the Ministry of Foreign Affairs, International Trade and Worship and with reference to the Ministry's note 42/96 of 4 March has the honour to state the following.

"The United Kingdom has no doubts about its sovereignty over South Georgia and the South Sandwich Islands and its consequential rights to extend maritime jurisdiction around the territory in accordance with the rules of international law. Accordingly, the Embassy are instructed to reject the protest contained in the Ministry's note.

"Furthermore, the implication in the note, and the assertion in the Argentine aide-mémoire referred to therein, that under the Convention on the Conservation of Antarctic Marine Living Resources conservation measures may not be enforced by the exercise of coastal state jurisdiction is manifestly unfounded. The Embassy reiterates the point, made in its aide-mémoire of 16 January 1996, that article IV of the Convention, and the so-called Chairman's statement of 1980, recognize that parties to the Convention with islands within its area of application may exercise coastal state jurisdiction in respect of those islands. The legal position was set out in more detail in the Australian statement at the meeting of the Commission for Conservation of Antarctic Marine Living Resources on 3 November 1995, a copy of which was attached to the aide-mémoire.

"The Chairman's statement applies equally to islands to which another State has laid a claim. The statement is expressed to apply to islands "over which the existence of state sovereignty is recognized by all contracting parties". It is the recognition of the "existence" of state sovereignty which is referred to, not the recognition of the sovereignty of a particular State.

"The Embassy reiterates that the exercise of coastal state jurisdiction in the territory's maritime zone is done in full conformity with the Convention and conservation measures adopted under it. In this connection, the Embassy would draw attention to the terms of the joint statement issued by our two Governments on 7 May 1993.

"The British Government therefore rejects any suggestion that the actions taken by the Government of the territory are in breach of any international obligations.

"With regard to the reference in the Ministry's note to the application of the mechanisms of article XXV of the Convention, the British Government would be pleased to engage in bilateral consultations concerning the interpretation of the Convention."

III. MINE CLEARING

10. In a statement to the International Meeting on Mine Clearance (Geneva, 5-7 July 1995) on 7 July 1995 the representative of Argentina stated, inter alia, the following:

"I would like to point out that our Government has offered to assume the costs of removing the mines laid by the Argentine armed forces in the Malvinas Islands in 1982. This is an ex-gratia offer and does not imply the acceptation of any responsibility.

"In July 1994, the Argentine Republic and the United Kingdom have agreed to request the collaboration of the United States in order to carry out this initiative. The United States Government responded affirmatively to this request and is at present analysing with the Argentine Government the modality that the procedure will assume in order to carry out this operation.

"This initiative corresponds with the national position on disarmament, international security and arms limitation matters. It is at the same time still another demonstration of Argentina's disposition to consider, in the course of her actions, the interests of the inhabitants of the Malvinas Islands and to create an adequate framework for mutual understanding.

"Therefore, it is Argentina's intention that the expenditure caused by the demining of the Malvinas Islands be considered as a contribution to the voluntary trust fund established by United Nations General Assembly resolution 48/7 on assistance in mine clearance, co-sponsored by the

Republic of Argentina and adopted without a vote by the Assembly on 19 October 1993."

IV. ECONOMIC CONDITIONS

A. Public Finance

11. According to the administering Power, in the financial year 1995/96 the estimated total revenue was £36,198,450 and the estimated total expenditure was £38,365,010. A breakdown of the revenue by type is as follows: fishing licences and transshipment, £16,712,200; investments, £5,973,640; taxes and duties, £2,965,000; sale of goods and services, £5,491,890; fines and licences, £98,550; capital revenue, £4,943,600; and miscellaneous, £13,400. Expenditure included the following: staffing costs, £8,809,180; vehicle costs, £286,190; internal transfers, £2,176,770; other operational costs, £10,035,670; and capital expenditure, £17,114,170. Capital expenditure in the 1995/96 financial year included the following: loans and investment, £1,615,000; plant and vehicles, £2,070,600; roads, £3,324,600; housing, £528,000; government buildings and lands, £1,329,800; municipal services, £1,065,000; air transportation, £386,350; consultancies, £1,135,000; departmental capital assets, £556,510; fund transfers, £1 million and transfer payments, £3,762,310.

B. Agriculture, land tenure and livestock

12. Detailed information on the evolution of agriculture, land tenure and livestock is contained in a previous working paper prepared by the Secretariat (A/AC.109/1198, paras. 43-46).

13. During the period under review, the Agricultural Department continued to be responsible for this sector of economy. The department carried out routine testing for Brucella ovis and tuberculosis with negative results and declared the livestock to be free of those diseases. It also noted the general downward trend in the incidence of hydatid in sheep. The department continued to provide certification for the fish catches from the vessels with the territorial flag. The research work of the department included completion of surveying and vegetation mapping of a 1,200-acre grazing trail in Fitzroy and launching of a joint Queens University Belfast/Falkland Islands Trust project to monitor soil erosion and implement methods of control. The department also published an updated edition of the Farm Management Handbook.

C. Fisheries

14. Squid, including Loligo and Illex, are the mainstay of the territorial fisheries and economy. During 1994/95, record catch rates of Loligo squid amounting to 91,117 metric tons were achieved. However, catch rates of Illex squid continued to be low and raised concerns about the future of the Illex stock.

15. The Fisheries Department continued to supervise all activities in that industry. Scientific activities of the department included routine monitoring of all commercial fish stock. In cooperation with Stevedore and Fishery Services, Ltd., and their Spanish partners, a deep water areas exploration project was undertaken. As a result, several species were recorded in that area and certain future commercial opportunities were identified. A squid research project was conducted together with scientists from the British Antarctic Survey and Australia.

16. The number of local companies operating in the fisheries sector continued to grow. There was an increase in the number of fishing vessels registered locally. Consolidated Fisheries, a local company, was particularly successful in the toothfish fishery.

17. Revenues from fishing licence allocations to foreign companies continued to be a major source of economic welfare of the Territory. In 1995, 263 fishing licences were allocated to foreign companies, producing a total revenue of £19,847,893. In 1994, £247,500 revenue originated from 192 transhipping/reefer licences issued by the department. Among the countries licensed to fish in the islands' waters were Chile, France, Honduras, Italy, Japan, Panama, Poland, Portugal, the Republic of Korea, Spain and the United Kingdom.

18. The eleventh meeting of the South Atlantic Fisheries Commission concluded its work on 21 November 1995 at Buenos Aires. The following joint statement of the Commission was issued on the same day:

> "1. The Eleventh Meeting of the South Atlantic Fisheries Commission took place at Buenos Aires on 20 and 21 November 1995. The British delegation was led by the Head of the South Atlantic and Antarctic Department, Mr. Tony Longrigg, and the Argentine delegation was led by the Legal Adviser, Ambassador Alberto L. Daverede.
>
> "2. The British and Argentine delegations agreed that there applied to this meeting and its consequences the formula on sovereignty over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas agreed by the British and Argentine Governments in paragraph 2 of the Joint Statement issued at Madrid on 19 October 1989.
>
> "3. The South Atlantic Fisheries Commission welcomed the report of the Scientific Sub-Committee on its sixth meeting which was held at Mar del Plata on 16 and 17 November 1995. They noted with satisfaction the co-operation between Imperial College and INIDEP and encouraged the further intensification of scientific exchanges.
>
> "4. Both delegations expressed their commitment to the conservation of fish stocks in the south-west Atlantic and recommended to their Governments that negotiations should be actively pursued with a view to reaching an understanding in the course of 1996. To this end they agreed to meet again for further discussions in the near future.
>
> "5. Both delegations agreed to continue giving priority to conservation, principally of Illex squid and southern blue whiting but also

other species within the remit of the Commission, on the basis of the best scientific advice available.

"6. It was agreed that fishing activity must be tightly controlled throughout the south-west Atlantic for the conservation of Illex stock. It was therefore decided to recommend to Governments that they take steps to ensure that there is no increase in the level of fishing in the relevant areas.

"7. The Commission viewed with concern the high level of fishing activity directed at the Illex stock on the high seas which could undermine the conservation goals of the Commission. It was therefore decided to recommend to Governments that appropriate measures be taken to monitor and exchange information on the level of fishing activity on the high seas.

"8. During 1995 the Early Warning system had been invoked and resulted in a closure of the Illex fishery. At its last meeting the Commission had noted that the system had worked satisfactorily, but given the importance of this system in the management of Illex, had requested that the Scientific Sub-Committee investigate possible improvements. The Scientific Sub-Committee had made recommendations about improvements to the early warning system, which they recommended should be tested in 1996. The Commission accepted these recommendations and noted that taken together, with planned improvements in information processing, they should ensure a more efficient operation in the future.

"9. The delegations recommended to their respective Governments a number of joint scientific research projects for the forthcoming year. These included a research cruise to estimate the size of the Illex recruitment in February 1996 and, reflecting concern about the state of the southern blue whiting stock, a workshop in June 1996 to develop a research cruise methodology to estimate the stock size of southern blue whiting for later application for which INIDEP has allocated ship time in August/September 1996.

"10. Both delegations expressed their satisfaction with the way in which the rapid communications system was working.

"11. Both delegations welcomed the Agreement of 1995 relating to straddling fish stocks and highly migratory fish stocks and agreed to consider further its implications for the work of the Commission.

"12. The Commission received from the Argentine delegation a list of measures for conserving species within the competence of the Commission. The subject will be considered further by the two parties.

"13. Both delegations noted that fishing in the area described in the annex to the joint statement of 28 November 1990 had been allowed from the start of the 1994 season and that it would continue during the 1996 season.

"14. The Argentine delegation made reference to the concern of the Argentine Government about the situation created by the British decision

with respect to the area to the west of the area described in the annex to the joint statement of 28 November 1990. The British delegation stated its position.

"15. The meeting took place in a friendly and constructive atmosphere."

19. In April 1996, the Foreign Ministers of Argentina and the United Kingdom met at Iguazu, Argentina. 5/ On 13 April, upon the conclusion of the meeting, the following press statement was issued:

"Both parties agreed to hold consultations on South Georgia fisheries within the framework of the Convention on the Conservation of Antarctic Marine Living Resources concerning the interpretation and application of the Convention. Both parties expressed their political will to resume conversations on a fisheries agreement for the longer term, putting emphasis on conservation. No dates have yet been set."

20. The following statement was issued on 17 April 1996 by the spokesman for the Secretary-General of the United Nations (SG/SM/5962): 6/

"This morning the Secretary-General received the visit of the Foreign Minister of Argentina, Guido di Tella. The Foreign Minister informed the Secretary-General about the recent incidents in South Atlantic waters resulting from the United Kingdom's decision to enforce the collection of licence fees on Argentine trawlers fishing off the coast of South Georgia, south-east of the Falkland Islands (Malvinas).

"The Foreign Minister told the Secretary-General that he had already met twice with the Foreign Minister of the United Kingdom, Malcolm Rifkind, and that a settlement of the dispute over the question of licence fees had been in progress. The Foreign Minister indicated his concern that the overall fragility of the situation might lead to renewed tensions.

"The Secretary-General expressed his hope that both Governments would continue with their dialogue for a peaceful settlement of all their differences in the area of the Falkland Islands (Malvinas)."

D. Tourism

21. During the 1994/95 financial year, 35 cruise ships carrying 5,650 passengers visited the Territory. The number of air passenger arrivals was 7,025.

E. Oil

22. On 27 September 1995, the following statement was issued by the United Kingdom Foreign and Commonwealth Office:

"The British Government welcomes the understanding reached with Argentina on cooperation over offshore activities in the south-west Atlantic.

"The understanding will facilitate mutually beneficial cooperation, promoting the development of hydrocarbons. It will further improve relations with Argentina since the Madrid joint statement of February 1990. At the same time, it will offer commercial opportunities to British companies, as well as to the Falkland Islands, which will launch a licensing round in October.

"The joint declaration safeguards British sovereignty and jurisdiction over the Falkland Islands and the surrounding maritime areas. Her Majesty's Government have no doubts about the sovereignty and jurisdiction of the United Kingdom.

"Her Majesty's Government are aware that Argentina proposes to enact legislation purporting to impose charges on companies working in maritime areas surrounding the Falkland Islands. Her Majesty's Government do not accept any Argentine claim to impose such charges on companies on reason only of their activities on the continental shelf around the Falkland Islands under Falkland licence. Her Majesty's Government will be working with the Falkland Islands Government in the development of the forthcoming licensing round. We welcome the understanding as a beneficial factor which will reassure the oil industry and improve the climate for exploration for and exploitation of hydrocarbons in a frontier area.

"Appropriate legislation will be introduced in order to take account of the joint declaration, including a new Ordinance in the Falkland Islands."

23. On 27 September 1995, the Government of Argentina issued the following statement:

"The Argentine Government welcomes the achievement of an understanding with the United Kingdom on matters concerning cooperation over exploration for and exploitation of hydrocarbons in the maritime areas subject to a dispute of sovereignty in the south-west Atlantic.

"That understanding will preserve the cordial relations existing between the two countries at the current high level. At the same time, it will offer commercial opportunities to Argentine companies, and it will contribute to the economic prosperity of the country, particularly in the Patagonian region.

"The understanding safeguards the imprescriptible rights of the Argentine Republic over the Malvinas Islands, South Georgia and the South Sandwich Islands and their surrounding maritime areas, as it emerges from the text of the declaration, and as it shall be reflected by the implementation of its dispositions. As both parties have agreed, it shall not be interpreted in any way as a recognition or support of the position of the United Kingdom in respect of sovereignty over the referred islands or the surrounding maritime areas.

"On the basis of this understanding, the Argentine Republic shall benefit, without prejudice to its legitimate rights, from the activities to be carried out in the areas subject to the dispute of sovereignty, through a provisional modus vivendi until both parties resolve that dispute by the peaceful means established by international law. The benefits to be received shall be related to the exploration areas of the volumes of hydrocarbons produced. In accordance with paragraph 6 of the joint declaration, the Executive Power shall introduce in the National Congress non-discriminatory legislation which will impose charges on national and foreign companies operating in the area to the benefit of the nation. The understanding and its implementation do not imply and shall not be interpreted in any way as an acceptance of a claimed right to call for a licensing round for the development of hydrocarbons in the maritime areas surrounding the Malvinas Islands. The Executive Power considers that the assistance of the National Congress is absolutely necessary in order to make the present declaration operative. To this end it will introduce the pertinent bills for their legislative consideration."

24. On 27 September 1995, the Foreign Ministers of Argentina and the United Kingdom met in New York and issued the following statement:

"The Ministers of Foreign Affairs of the United Kingdom and the Argentine Republic signed in New York today a joint declaration concerning cooperation over offshore activities in the south-west Atlantic.

"This declaration is evidence of the will of the two Governments to cooperate on the basis of the agreements reached at Madrid on 15 February 1990. The understanding reached today will not affect the positions of the two countries on sovereignty.

"Both Governments believe that this understanding can be a catalyst for the future development of bilateral relations. The Foreign Ministers have had a very friendly and constructive discussion on how to make progress."

25. The text of the joint declaration entitled "Cooperation over off-shore activities in the south-west Atlantic", issued by the Governments of Argentina and the United Kingdom on 27 September 1995, is reproduced below:

"1. The Government of the Argentine Republic and the Government of the United Kingdom of Great Britain and Northern Ireland agreed that the following formula on sovereignty, based on that contained in the joint statement issued at Madrid on 19 October 1989, applies to this joint declaration and its results:

"(a) Nothing in the content of the present joint declaration or of any similar subsequent joint statements and meetings shall be interpreted as:

"(i) A change in the position of the United Kingdom with regard to sovereignty or territorial and maritime jurisdiction over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas;

"(ii) A change in the position of the Argentine Republic with regard to sovereignty or territorial and maritime jurisdiction over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas;

"(iii) Recognition of or support for the position of the United Kingdom or the Argentine Republic with regard to sovereignty or territorial and maritime jurisdiction over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas;

"(b) No act or activity carried out by the United Kingdom, the Argentine Republic or third parties as a consequence and in implementation of anything agreed to in the present joint declaration or in any similar subsequent joint statements and meetings shall constitute a basis for affirming, supporting, or denying the position of the United Kingdom or the Argentine Republic regarding the sovereignty or territorial and maritime jurisdiction over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas. The areas subject to the controversy on sovereignty and jurisdiction will not be extended in any way as a consequence of this joint declaration or its implementation.

"This Joint Declaration does not apply to the maritime areas surrounding South Georgia or the South Sandwich Islands.

"2. The two Governments agreed to cooperate in order to encourage off-shore activities in the south-west Atlantic in accordance with the provisions contained herein. Exploration for and exploitation of hydrocarbons by the off-shore oil and gas industry will be carried out in accordance with sound commercial principles and good oil field practice, drawing upon the Governments' experience both in the south-west Atlantic and in the North Sea. Cooperation will be furthered:

"(a) By means of the establishment of a Joint Commission, composed of delegations from both sides;

"(b) By means of coordinated activities in up to six trenches, each of about 3,500 km^2, the first ones to be situated within the sedimentary structure as identified in the annex.

"3. The Commission will be composed of a delegation from each of the two States, and will meet at least twice a year. Recommendations shall be reached by mutual agreement.

"4. The Commission will have the following functions:

"(a) To submit to both Governments recommendations and proposed standards for the protection of the marine environment of the south-west Atlantic, taking into account relevant international conventions and recommendations of competent international organizations;

"(b) To coordinate activities in the trenches referred to in paragraph 2 (b) above, as areas for special cooperation. This will be done by the establishment of a sub-committee which shall meet regularly, subordinate to the Commission, charged with:

"(i) Encouraging commercial activities in each trench by means such as joint ventures and consortia from the two sides;

"(ii) Seeking nominations from companies for each trench, to be offered upon terms appropriate for a challenging environment;

"(iii) Making recommendations on proposals made to the two Governments by companies for development projects in each trench, including the limits of the trenches;

"(iv) Seeking close coordination in regard to all aspects of future operations, including the overall levels of fees, royalties, charges and taxes, the harmonization of timing, commercial terms and conditions, and compliance with recommended standards;

"(v) Recommending, on the basis of geological data known to both sides, additional trenches either within the sedimentary structure referred to in the annex or in a further area to be agreed by the Governments on the recommendation of the Commission;

"(c) To promote the exploration for and exploitation of hydrocarbons in maritime areas of the south-west Atlantic subject to a controversy on sovereignty and jurisdiction, and to this end:

"(i) To promote cooperation between industry on both sides, including the formation of joint ventures and the elaboration of joint projects for exploration, production and use of infrastructure;

"(ii) To receive from both sides and from operating companies the available information on scientific research, development of activities and commercial operations relating to the seabed, whilst respecting commercial confidentiality;

"(iii) To propose to both Governments coordinated research work by commercial undertakings;

"(iv) To submit to both Governments recommendations for standards for off-shore activities in safety, health and monitoring; both Governments will take the appropriate measures in order to ensure that the companies will keep the Commission informed on the development of their activities;

"(d) On the basis of geological data known to both sides, to propose to the two Governments at the appropriate time further areas of special cooperation, on terms similar to those contained in paragraph 4 (b) above;

"(e) To consider and submit recommendations to the two Governments on any related matter which may arise in the future, including the possible need to agree on the unitization of any discoveries in accordance with good oil field practice, on pipeline operations and on the efficient use of infrastructure.

"5. The arrangements regarding search and rescue set out in the joint statements of 25 September 1991 and 12 July 1993 or any future arrangements between the Parties on the same subject will apply to off-shore activities. Civilian helicopter traffic will be the subject of future discussion.

"6. Each Government will take the appropriately related administrative measures in accordance with this joint declaration for the exploration for and exploitation of hydrocarbons in the areas referred to in paragraph 4 above. They agreed that such measures regulating the activities of companies would be subject to the formula on sovereignty in paragraph 1 above. The Parties will create the conditions for substantial participation in the activities by companies from the two sides. The Parties will communicate to each other relevant information relating to the conduct of exploration and exploitation activities in the areas. Both Parties agreed to abstain from taking action or imposing conditions designed or tending to inhibit or frustrate the possibility of carrying out hydrocarbon development in the areas.

"7. In order to implement the different arrangements in this joint declaration, which form an interdependent whole, the two Governments agreed to cooperate throughout the different stages of off-shore activities undertaken by commercial operators, including the regime for the eventual abandonment of installations."

26. On 1 March 1996, the Governments of Argentina and the United Kingdom issued the following joint press statement on the first meeting of the South-West Atlantic Hydrocarbons Commission:

"1. A British-Argentine meeting took place on 29 February and 1 March at Buenos Aires during which the South-West Atlantic Hydrocarbons Commission was established. The British delegation was led by Mr. William Marsden, Assistant Under-Secretary for the Americas at the Foreign and Commonwealth Office and the Argentine delegation by Ambassador Guillermo Gonzalez, Under-Secretary for Foreign Policy at the Ministry of Foreign Affairs, International Trade and Worship.

"2. The British and Argentine delegations agreed that there applied to the meeting and its consequences the formula of sovereignty over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas set out in paragraph 1 of the joint declaration of 27 September 1995.

"3. Both delegations reaffirmed their commitment to apply the aforementioned joint declaration, and they expressed their support for the new Commission in its task of carrying out the functions set out by the joint declaration. In this regard, the delegations agreed on the working procedures of the Commission, which will meet at least twice a year.

"4. The Commission established a Sub-Committee, in accordance with the provisions of the joint declaration. The Sub-Committee will consist of officials and experts from the two parties, to advise the Commission on the technical aspects of hydrocarbon activities in the Special Cooperation Area.

"5. The delegations also discussed measures for environmental protection in the south-west Atlantic, and exchanged information on the matter. They also reported on the administrative measures proposed by their respective Governments in accordance with the joint declaration.

"6. The delegations agreed on the need to address a number of detailed practical questions before a licensing round can be launched in the Special Cooperation Area as defined in the joint declaration. The two parties considered that good progress had already been made.

"7. Both delegations reiterated their intention to promote, through the Commission, the exploration for and exploitation of hydrocarbons in maritime areas of the south-west Atlantic subject to a controversy on sovereignty and jurisdiction, and, to this end, to promote cooperation between industry on both sides, including the formation of joint ventures and the elaboration of joint projects for exploration, production and use of infrastructure.

"8. The meeting took place in a constructive and cordial atmosphere, and both delegations expressed their confidence that cooperation on hydrocarbons in the south-west Atlantic would facilitate the economic development of the region, taking into special consideration the protection of the marine environment.

"9. The next meeting of the Commission will be held in the second half of the current year. The Sub-Committee will meet for the first time, in London, in April/May 1996."

F. Transport, communications and other basic facilities

27. Detailed information on transport, communications and other basic facilities is provided in the 1994 and 1995 working papers prepared by the Secretariat (A/AC.109/1198, paras. 65-70, and A/AC.109/2027, paras. 32-33).

28. During the period under review, the Civil Aviation Department carried out a survey of the pavement surfaces at the Stanley airport and currently is concentrating its efforts to complete slurry-sealing of the runway and clearing of the drainage system. Routine maintenance and surveys of the territorial camp airstrips continued. The Chief Inspector of Aviation Security from the United

Kingdom visited the Territory in March 1995 to review the aviation security in the islands.

29. The Falkland Islands Broadcasting Service (FIBS) continued to provide programming within the 24-hour-a-day service agreed upon with the British Forces Broadcasting Services (BFBS).

30. The Media Trust continued to be responsible for the Penguin News, a territorial weekly newspaper, and concentrated its efforts on further improvement in the quality of that publication.

31. The Philatelic Bureau was restructured, emphasis being placed on quality of design and increased publicity to encourage worldwide collection of the territorial stamps.

32. During the period under review, the Government of Argentina maintained its position that the restoration of communications between the mainland and the Falkland Islands (Malvinas) continued to be a primary objective, since improved links would produce commercial and economic benefits for the entire region by creating the necessary framework for achieving greater understanding between the inhabitants of the region and for serving their interests (see also A/AC.109/2027, para. 33). On 14 March 1996, the Government of Argentina addressed a note verbale to the Executive Secretary of the Commission for Conservation of Antarctic Marine Living Resources (CCAMLR) in which, inter alia, it stated the following: 7/

> "The unlawful detention of a fishing vessel of Chilean registry, the Antonio Lorenzo, in statistical subarea 48.3 by vessels of the United Kingdom of Great Britain and Northern Ireland while it was engaged in fishing operations under the Convention on the Conservation of Antarctic Marine Living Resources, and its subsequent escort to the Malvinas Islands, have had consequences that are prejudicial to the Convention and to the international system of scientific observation established thereunder. The Argentine Republic is informed that the CCAMLR international scientific observer designated by it for the purpose of performing tasks aboard the above-mentioned Chilean vessel has been taken to the Malvinas Islands, where he is deprived of his freedom of movement inasmuch as he is not allowed to leave the vessel, and his ability to communicate is severely restricted. The Argentine Republic wishes to point out that actions of this kind contravene the letter and the spirit of the Convention, in particular the rules concerning the international system of scientific observation ..."

33. On 8 May 1996, the Government of the United Kingdom addressed a letter to the Secretary-General of CCAMLR, in which, with reference to the note verbale of the Argentine Government quoted above, it stated, inter alia, the following: 7/

> "... The Argentine letter of 14 March 1996 appears to deny the United Kingdom's sovereignty over South Georgia and the South Sandwich Islands. Although it is not a matter within the scope of the Convention, it is desirable that the position of the United Kingdom be placed on record. The United Kingdom has no doubt about its sovereignty over South Georgia and

the South Sandwich Islands and its right to exercise maritime jurisdiction around the islands in accordance with the rules of international law ...

"... The arrest of the vessel (Antonio Lorenzo) did not infringe in any way the rights of the CCAMLR scientific observer who was on board at the time. The presence of such an observer affords no immunity to the vessel in respect of infringements of the Convention conservation measures or national legislation enforcing them. In view of the immigration regulations, the observer in question was asked whether he wished to leave the Falkland Islands by air or remain on board the vessel until it sailed. The United Kingdom kept the Argentine Government in touch with developments. The observer chose to remain on the vessel. During that time he was free to communicate by any means available to him. In a diplomatic note delivered to the Government of Argentina on 27 March, the United Kingdom, in response to a formal request by Argentina, expressed its willingness to engage in bilateral consultations concerning the interpretation and application of the Convention in accordance with article XXV of the Convention. This was confirmed by the Foreign Ministers of the United Kingdom and Argentina at their meeting on 13 April 1996 at Iguazu, Argentina ..."

G. Banking

34. The Standard Chartered Bank of the United Kingdom has been operating in Stanley since 1983. Both United Kingdom and local coinage are used, together with local currency notes.

H. Public works

35. During the period under review, the Public Works Department completed the following projects: construction of North Camp Rural Road to Port San Carlos; building of dwellings at West Stanley; rebuilding of Moody Brook dam. Construction of a road from Port Howard to Fox Bay is nearing completion. In 1995, the Department published a draft town plan for Stanley. The projects of the Department for 1996 include upgrading of main rural roads, construction of additional classrooms and a new hall at the Stanley junior school and development of the East Stanley area.

V. SOCIAL CONDITIONS

A. General

36. According to the administering Power, during the period under review, all categories of workers improved their monetary standard of living in real terms.

B. Public health

37. According to the administering Power, the general state of health and nutrition of the population and the standard of medical care in the Territory are similar to those of North America and Europe. The principal causes of death are carcinomatosis, ischaemia and respiratory infection of the aged.

38. Medical and dental care as well as medications are free to all residents of the Territory and all United Kingdom citizens. A medical services levy is paid by every resident of the Territory as follows: employed persons, 1 per cent of their salary; employers, 1.5 per cent of the salary of each employee; and self-employed persons, 1.5 per cent of their net profit.

39. The Government Medical Department is responsible for the supervision of public health services. The Department's total expenditure in the 1993/94 financial year was £1,947,420. There is no private system of medical care. All medical services in the Territory are based at the King Edward VI Memorial Hospital at Stanley. The hospital has 28 beds, including two maternity and two intensive-care beds. The hospital has the facilities to deal with all acute medical and surgical conditions. Cases requiring specialist facilities are referred to the United Kingdom or to Uruguay for emergency.

C. Social security and welfare

40. There are contributory and non-contributory old age pension schemes. There is no provision for payment of a disability pension, but there is a system of social welfare grants and pensions to deal with cases of hardship and disability. Social welfare expenditure in the 1994/95 financial year was approximately £40,500.

D. Housing

41. In cooperation with the administering Power, the territorial Government completed a programme of "general needs" housing construction and is now concentrating on the provision of single-person housing and serviced plots for self-builders.

VI. EDUCATIONAL CONDITIONS

42. During the period under review, both Stanley schools and camp education had a full complement of teachers. The school curriculum is reported to be up to date. Thirteen students gained sufficient grades to qualify for overseas training. The compulsory schooling age was raised to 16 years, bringing that indicator into line with world standards. Progress in upgrading books and reference materials in the Community Library was also reported.

VII. PARTICIPATION IN INTERNATIONAL ORGANIZATIONS AND ARRANGEMENTS

43. The Government of the Falkland Islands (Malvinas) participates in activities of the Commonwealth and is a member of British Dependent Territories Association. It also takes part in the work of multilateral organizations concerned with the exploitation and preservation of marine resources in the South Atlantic.

VIII. CONSIDERATION BY THE UNITED NATIONS

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

44. The question of the Falkland Islands (Malvinas) was considered by the Special Committee at its 1442nd and 1446th meetings, on 10 and 13 July 1995. At its 1446th meeting, the Committee heard Mr. Ricardo Patterson and Mr. Alexander Betts, as well as Councillor E. M. Goss and Councillor N. Edwards of the Legislative Council of the Falkland Islands (Malvinas). At the same meeting the Special Committee acceded to the request of the delegation of Argentina to participate in the consideration of the item.

45. At the 1446th meeting, the Minister for Foreign Affairs, International Trade and Worship of Argentina made a statement reiterating the position of his Government on the issue, in which, inter alia, he said the following (A/AC.109/PV.1446):

> "In its resolutions 2065 (XX), 3160 (XXVIII), 37/9 and others, the General Assembly recognized the existence of a sovereignty dispute between Argentina and the United Kingdom, and determined that it should be resolved through negotiations between the parties, taking due account of the interests of the population of the islands. This Committee and the Assembly have repeatedly called on both countries to relaunch negotiations on the question of sovereignty and have affirmed that such a peaceful solution to the dispute is the way to decolonize the Malvinas Islands.
>
> "The right to self-determination does not apply to the inhabitants of the islands, as the General Assembly reaffirmed in its voting on 27 November 1985. To assert otherwise would be to recognize the validity of an originally illegitimate act, because the mere passage of time cannot generate rights for an occupying Power or its subjects installed in a foreign territory who have displaced the local inhabitants by force. Since 1833, Argentines have been prevented from moving freely to the islands or becoming landowners there, which has strengthened the islanders' isolationist attitude towards the mainland."

46. At the same meeting, the representative of Venezuela, on behalf also of Chile and Cuba, introduced draft resolution A/AC.109/L.1830. Following statements by the representatives of Cuba, Chile and Papua New Guinea, the Special Committee adopted draft resolution A/AC.109/L.1830 without a vote.

Statements in explanation of their position were made by the representatives of Sierra Leone and Trinidad and Tobago (see A/AC.109/PV.1446). On 24 July 1995, the text of the resolution (A/AC.109/2033) was transmitted to the Permanent Representatives of the United Kingdom and Argentina to the United Nations for the attention of their respective Governments.

B. General Assembly

Position of the Government of Argentina

47. During the general debate at the fiftieth session of the General Assembly, the Minister for Foreign Affairs, International Trade and Worship of Argentina, in the course of his statement on 27 September 1995, reiterated the position of his Government as follows (A/50/PV.8):

> "In the South Atlantic, the dispute concerning sovereignty over the Malvinas, South Georgia and the South Sandwich Islands and the surrounding maritime spaces has not yet been resolved. We will not cite yet again the numerous resolutions in which the General Assembly and the Decolonization Committee have categorically and repeatedly stated their position on this matter. Let me simply recall that all of these include a clear and direct appeal to the two countries involved - Argentina and the United Kingdom - to reach a negotiated settlement of this dispute. This appeal from the Assembly remains unheeded, despite the willingness we have constantly shown and the excellent relations that bind our two countries. This makes the issue even more baffling.
>
> "In spite of this, we maintain a cooperative effort with regard to the exploitation of fishing resources in the area in an attempt to protect the biomass and at the same time ensure that significant economic activity continues.
>
> "With regard to oil, given the non-renewable character of the resources and the existence of a consolidated international doctrine which proscribes the unilateral exploitation of disputed resources, we are reaching a temporary understanding that allows us to engage in further exploration and exploitation while avoiding the creation of new sources of tension which might discourage initiatives from the private sector.
>
> "This very morning we and the United Kingdom Secretary of State for Foreign and Commonwealth Affairs, Malcolm Rifkind, signed a joint declaration which will allow us to move forward together in this spirit.
>
> "With respect to the inhabitants of the islands, I repeat our determination to guarantee total respect for their way of life, their culture, habits and institutions.
>
> "The dispute over the Malvinas Islands will not disappear as if by magic. The peaceful recovery of the exercise of full sovereignty over all the territories in dispute and the surrounding waters, and respect for the way of life of the islands' inhabitants, are today part of Argentina's

Constitution, on which there was consensus across the entire political spectrum of my country. Only rational dialogue, without any a priori conditions from either party, will permit us to make progress towards the final implementation of the resolutions of the Assembly and of the Decolonization Committee."

Position of the administering Power

48. During the general debate at the fiftieth session of the General Assembly, in his statement of 26 September 1995 (see A/50/PV.6), the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom made no reference to the question of the Falkland Islands (Malvinas). However, also during the general debate, on 27 September 1995, speaking in exercise of the right of reply to the remarks of the Foreign Minister of Argentina (see para. 47 above), the representative of the United Kingdom stated the following (A/50/PV.9):

"My delegation welcomes the Foreign Minister's accent on the increasing cooperation between the United Kingdom and Argentina which characterizes our bilateral relationship.

"On the question of the Falkland Islands, as our Foreign Secretary, Douglas Hurd, stated in the Assembly last year, we have no doubt about Britain's sovereignty over the Falkland Islands and other British dependencies in the South Atlantic, sovereignty which rests upon the firm historical foundations and upon the inalienable right of the Falkland Islanders to self-determination, which they have exercised on repeated occasions in democratic elections.

"We must heed the wishes of the people concerned. The elected representatives of the islanders, who visited the United Nations for the debate in the Committee of 24 last July, clearly expressed their view that the Argentine claim to the Falklands was unjustified and should be dropped. The Minister refers to respect for the islanders. We should respect their right to determine their own future.

"Argentina and Britain are however succeeding in cooperating on the basis of the agreements which they reached in Madrid on 15 February 1990. Today we have signed an important agreement on cooperation over offshore activities in the south-west Atlantic. This clearly states that it will not affect the positions of either side on the sovereignty issue.

"My Government sincerely hopes that the progress which has been achieved will be built on and developed for the benefit of the South Atlantic region as a whole. This represents, in my Government's view, the most appropriate means of securing a bright and peaceful future for all the populations concerned."

Contributions by other Member States

49. During the general debate on decolonization items in the Special Political and Decolonization Committee (Fourth Committee), the representative of Ecuador, on 11 October 1995, made a statement on behalf of the Rio Group (see

A/C.4/50/SR.5), in which he said, inter alia, that the recent improvements in the bilateral relations between Argentina and the United Kingdom would make it possible to find a peaceful solution to the question of sovereignty over the Malvinas, South Georgia and the South Sandwich Islands on the basis of the corresponding General Assembly resolutions. Reference to the question of the Falkland Islands (Malvinas) was made at the same meeting by the representatives of Brazil and Uruguay (see A/C.4/50/SR.5). Speaking in exercise of the right of reply (see A/C.4/50/SR.6), the representative of the United Kingdom referred to the statement made earlier that day by the representative of Ecuador, expressing the wish that a solution should be found to the sovereignty dispute over the Falkland Islands, South Georgia and the South Sandwich Islands. The United Kingdom's position on those matters was well known and had been set out most recently in its exercise of the right of reply in connection with the statement made to the General Assembly by the Argentine Foreign Minister on 27 September 1995.

Action by the General Assembly

50. On 31 October 1995, at its 45th meeting, the General Assembly decided to defer consideration of the question of the Falkland Islands (Malvinas) and to include it in the provisional agenda of its fifty-first session (decision 50/406).

IX. CONSIDERATION BY THE ORGANIZATION OF AMERICAN STATES

51. On 4 June 1996, the following declaration was adopted by acclamation by the General Assembly of the Organization of American States (OAS):

"The General Assembly,

"Considering its reiterated statements that the 'Question of the Malvinas Islands' is a matter of enduring hemispheric concern;

"Recalling its resolution AG/Res.928 (XVIII-O/88), that requests the Governments of the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland to resume negotiations in order to find, as soon as possible, a peaceful solution to the sovereignty dispute;

"Bearing in mind its resolution AG/Res.1049 (XX-O/90) that noted with satisfaction the resumption of diplomatic relations between both countries and its declaration AG/DEC.5 (XXIII-O/93) that emphasized the excellent state achieved in their bilateral relations;

"Having heard the presentation of the Head of the Delegation of the Argentine Republic;

"Welcomes the reiteration of the will of the Argentine Government to explore all possible ways for the peaceful settlement of the controversy and, in particular, its positive considerations towards the inhabitants of the Malvinas Islands;

"Decides to continue to examine this matter in the subsequent sessions of the General Assembly until its definitive solution."

52. On 13 November 1995, the Embassy of the United Kingdom in Washington had addressed a note verbale to the Chairman of the Permanent Council of the Organization of American States reiterating the position of the United Kingdom on the Territory as follows:

"... The position of the British Government on the question of the Falkland Islands is well known and remains unchanged. It was, for example, set out most recently by the British delegation in the United Kingdom right of reply to the statement in the United Nations General Assembly by the Argentine Foreign Minister on 27 September. I am sure you will understand why the United Kingdom cannot accept the various resolutions and decisions and declarations adopted by the General Assembly of the Organization and referred to in the preamble and operative paragraph 1 of resolution 655 (1041/95). I am sure that this matter will not inhibit the fruitful cooperation on a wider range of issues which we all desire. I should be grateful if Your Excellency could circulate this letter to the members of the Permanent Council ..."

53. On 4 June 1996, the head of the delegation of the United Kingdom to the OAS General Assembly addressed a letter to the President of the OAS General Assembly in which he stated the following:

"I have the honour to refer to the declaration on the question of the Falkland Islands (the correct name for the Islands in the English language) adopted by this plenary session.

"The position of the British Government on the question of the Falkland Islands is well known. It was set out by Sir John Kerr in his letter of 13 November 1995 to the Chairman of the Permanent Council. I am confident that this matter will not inhibit fruitful cooperation on the remaining issues on the agenda of the General Assembly.

"I should be grateful if Your Excellency could arrange to circulate this letter as an information document and include it in the record of the General Assembly."

X. CONSIDERATION BY THE LATIN AMERICAN PARLIAMENT

54. On 15 March 1996, the Latin American Parliament issued the following declaration: 8/

"The Executive Committee of the Latin American Parliament deeply regrets the militarist position contrary to the principles and norms of international law that the United Kingdom of Great Britain and Northern Ireland has taken with respect to South Georgia since 1 March, by using its warships to pursue fishing vessels and demanding payment of fees.

"Since negotiations between Argentina and the United Kingdom on sovereignty in this area are still under way, with regard to which the Latin American Parliament confirms its clear position in favour of Argentina's sovereignty, and since the collection of fishing fees clearly violates a treaty in force, the Latin American Parliament urges the United Kingdom Government to desist forthwith from such action and to resume the dialogue with the Government of Argentina on the basis of the joint declaration issued in New York on 27 September 1995."

Notes

1/ The information contained in the present paper has been derived from information transmitted to the Secretary-General on 14 September 1995 and on 29 April 1996 by the Government of the United Kingdom of Great Britain and Northern Ireland under Article 73 e of the Charter of the United Nations, as well as from official documents of the Governments of Argentina and the United Kingdom and published reports.

2/ World Population Prospects: The 1994 Revision (United Nations publication, Sales No. E.95.XIII.16).

3/ Penguin News (Stanley), 11 January 1996.

4/ Ibid., 4 January 1996.

5/ See also paras. 8, 9, 20, 33 and 52 of the present paper.

6/ See also paras. 8, 9, 19, 33 and 52 of the present paper.

7/ See also paras. 8, 9, 19, 20 and 52 of the present paper.

8/ Also see paras. 8, 9, 19, 20 and 52 of the present paper.

UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/AC.109/2049
17 June 1996

ORIGINAL: ENGLISH

SPECIAL COMMITTEE ON THE SITUATION
WITH REGARD TO THE IMPLEMENTATION OF
THE DECLARATION ON THE GRANTING OF
INDEPENDENCE TO COLONIAL COUNTRIES
AND PEOPLES

EAST TIMOR

Working paper prepared by the Secretariat

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EAST TIMOR

I. GENERAL

1. The Territory of East Timor comprises the eastern part of the island of Timor, which is located at the top of the chain of islands forming the Republic of Indonesia; the enclave of Oecusse Ambeno; the island of Atauro, off the northern coast of Timor; and the island of Jaco, off its extreme eastern tip. It lies between latitudes 8°17'S and 10°22'S and longitudes 123°25'E and 127°19'E. The 1980 census recorded the total population of the Territory at 555,350. According to the latest estimates, as of 1995, the population of the Territory was 814,000. 1/

II. POLITICAL DEVELOPMENTS

A. Background

2. According to Indonesian Law 7/76 of 17 July 1976, East Timor is a province or a "first-level region" of Indonesia with a Government consisting of a "Regional Secretariat" and a "Regional House of Representatives". East Timor is represented in the National House of Representatives and in the People's Consultative Assembly of Indonesia.

3. In its resolution 32/34 of 28 November 1977, the General Assembly rejected the claim that East Timor had been integrated into Indonesia, inasmuch as the people of the Territory had not been able to exercise freely their right to self-determination and independence.

B. Recent developments

4. Major-General Adang Ruchiatna, Commander of the Indonesian Udayana military region, reportedly estimated that, as of July 1995, the number of rebels of the Frente Revolucionaria de Timor Leste Independente (FRETILIN) stood at 200 persons, with some 100 weapons. He said that FRETILIN was supported by a 3,000-member clandestine network throughout Indonesia. 2/ According to the Indonesian military spokesman in East Timor, Captain Djoko Purwadi, during the period from March 1995 to January 1996, 20 FRETILIN members were killed by the Indonesian security forces and 27 others had been captured by or had surrendered to the Indonesian authorities. Captain Purwadi reportedly estimated the number of FRETILIN rebels at "193 persons with 89 guns". According to reports, on 26 January 1996, the military commander in East Timor, Colonel Mahidin Simbolon, called upon the FRETILIN rebels to give themselves up, adding that: "If they do not want to surrender peacefully, the security forces will exterminate those who are operating in the forests and mountains." 3/

5. According to the "Governor" of East Timor, Mr. Abilio José Osório Soares, as of June 1995, eight Indonesian battalions comprising 5,000 troops were stationed in the Territory. 4/ Also in June 1995, the Indonesian Government announced its intention to withdraw its two battalions from East Timor and to

replace those battalions by approximately 1,200 persons to be recruited in the Territory as "people's volunteers". The functions of those "people's volunteers" would fall under the authority of the Indonesian armed forces. 5/ In July 1995, the Commander-in-Chief of the Indonesian Armed Forces, General Feisal Tanjung, reportedly announced that in 1996 Indonesia intended to reduce its military presence in East Timor by two battalions, comprising 1,400 troops. 6/ In September 1995, Indonesia announced the withdrawal of two of its army battalions from East Timor. The Indonesian military commander in East Timor reportedly stated that the withdrawal "was the wise decision from armed forces leaders because the security conditions in East Timor were getting better" and that the battalions would not be replaced. He also denied allegations that combat battalions were stationed in East Timor. 7/ General Feisal Tanjung was reported to have stated, on 26 December 1996, that the Defence and Security Ministry had no intention of sending additional security forces to East Timor since the six battalions stationed there were quite sufficient for the security needs of the Territory. 8/

6. Two leaders of the East Timor resistance, Pedia Nunes Sabalae and Rumigio Levi da Costa Tilman, were reported to have been captured in June 1995 by the Indonesian military and have since remained unaccounted for. The National Council of Maubere Resistance (CNRM), in a statement of 23 August 1995, said that the fate of those two persons raised serious concerns. 9/

7. It was reported that, on 7 July 1995, three East Timorese rebels were killed in an armed clash with the Indonesian military at the village of Lalende, approximately 200 kilometres east of Dili. 10/

8. Press reports indicate that, on 20 July 1995, rioting broke out in Baucau following the alleged stabbing of two East Timorese by a Javanese trader at a local market. The same sources reported that the incident provoked violent demonstrations in Baucau, during which two policemen and one civilian were seriously wounded and numerous shops were burned. 11/

9. On 23 July 1995, a group of East Timorese farmers reportedly burned houses and shops in the town of Ermera, expressing their protest over low coffee prices and demanding that the Indonesian Government increase the prices for that main territorial commodity from US$ 0.67 to $1.25 per kilogram. In connection with the incident, the police chief of East Timor, Colonel Andreas Sugianto, stated that the farmers had been detained for a short period and had been released. "Governor" Soares said that legal action would be taken against those involved in the violence. 12/

10. In July 1995, the district court of East Timor reportedly sentenced five East Timorese to a term of five months in prison for "nocturnal marauding" in Dili. Earlier, the same court had similarly sentenced three other East Timorese. The Territorial authorities stated that those persons had been pro-Indonesian East Timorese who opposed the pro-independence movement. 13/

11. According to press reports, on 24 July 1995, the Indonesian military killed three alleged FRETILIN rebels in an armed clash near Illomar, about 30 kilometres south-west of the town of Los Palos. Their bodies were reportedly paraded through the area for identification. 14/

12. In a statement of 19 August 1995, Colonel Simbolon reiterated that general amnesty would be granted to all East Timorese rebels "who would repent and [who] would be willing to contribute to the development" of the Territory. 15/

13. It was reported that, in August 1995, imprisoned East Timorese resistance leader José Alexandre "Xanana" Gusmão was placed in solitary confinement after he had tried to smuggle a letter addressed to the United Nations Fourth World Conference on Women, Beijing. The same sources indicated that the letter contained an appeal to the international community to protect the rights of East Timorese women. 16/

14. On 1 September 1995, armed East Timorese rebels reportedly killed three civilians in a raid on the village of Samaguia, approximately 150 kilometres east of Dili. 17/

15. On 24 September 1995, Colonel Simbolon reportedly appealed to all East Timorese community members, religious and government leaders "to undertake a dialogue to get on top of the security situation" in the Territory. 18/

16. Press reports indicate that President Soeharto expressed his concern over the situation in East Timor during a meeting with the leaders of the Indonesian Bishops Conference (KWI) held on 26 September 1995. The President reportedly called for greater efforts to eliminate the prevailing suspicions which East Timorese harboured, particularly regarding non-East Timorese. Cardinal Julius Darmaatmadja, Chairman of KWI, emphasized that the problem of East Timor "was not just caused by ethnic bitterness" and considered it necessary to ensure that the East Timorese "erase all their suspicions about the Indonesians". 19/

17. In September 1995, the Indonesian Ambassador-at-large for East Timorese Affairs reportedly called upon the Indonesian Government to take steps towards strengthening political, economic and cultural integration with East Timor and stated that "East Timor was facing many pressing problems ranging from unemployment to underdevelopment". 20/

18. Press reports indicate that, on 25 September 1995, approximately 15 shots were fired at a rally attended by "Governor" Soares near Illomar, some 150 kilometres south-east of Dili. No casualties were reported. 21/

19. According to press reports, riots took place in East Timor between 2 and 16 September 1995. The riots were reportedly caused by anti-Catholic comments made by an official of the Maliana correctional institution and alleged bias in the process of recruitment of civil servants in the Territory. Acts of destruction and arson by the rioters were also reported. The police detained 20 persons allegedly involved in the "destruction, oppression and arson". 22/ On 19 September 1995, General Bamerusman Astrosemito, Chief of the Indonesian Police, arrived in Dili. 23/ East Timorese Catholic Bishop Carlos Felipe Ximenes Belo stated that the September ethnic and religious violence was only "the tip of the iceberg of frustrating conditions in East Timor" and represented "a strong message to the nation on how sensitive matters [were] concerning race and religion" in the Territory. 24/ Bishop Belo also appealed to all Catholics in East Timor "to be calm and to keep a sense of tolerance" and urged an open dialogue between all East Timorese. 25/

20. Also in September, Major-General Abdul Rivai, Chief of the Udayana Region Military Command, reportedly stated that he supported proposals for "an open and communicative dialogue between the East Timorese and the Government, which could be effective to solve the problems". 26/

21. In September 1995, "Governor" Soares announced that all Territorial civil servants should complete basic military training and that the refusal to follow those directions would lead to dismissal from the service. Many civil service posts in East Timor reportedly are filled by military officers seconded by the Indonesian armed forces. 27/

22. According to press reports, in October 1995, Mr. Sudomo, head of the Indonesian President's Supreme Advisory Council, met with East Timorese leaders. He reportedly called upon all East Timorese to work out together a definition of autonomy for the Territory. The same sources indicated that a number of East Timorese participants in those talks had raised the issue of giving local people control over all aspects of self-government aside from defence, public finance and foreign affairs. 28/

23. Press reports indicate that, on 9 October 1995, violence erupted at the East Timor University, leaving 2 persons dead and 11 injured. Clashes and mêlées were reported to have been especially numerous in the Dili suburb of Bucoli. The same sources indicate that the violence had been provoked by an incident in Bucoli when an ethnic Buginese trader stabbed an East Timorese. 29/ On 11 October, "Governor" Soares reportedly urged the security forces to take stern measures against the rioters. 30/ Riots in Dili continued throughout 12 October, when the Indonesian troops and police fired shots and used tear gas to disperse the crowds. 31/ Some 170 persons were detained and dozens of people were injured during the police action. 32/ On 12 October, East Timorese resistance leader José Ramos Horta appealed to Portugal to request the Secretary-General of the United Nations to intervene. 33/ On 20 October, more than 100 persons who had been arrested for alleged participation in the September-October riots in East Timor were released by the Indonesian Security forces. 34/

24. Press reports indicate that, in October 1995, residents of Dili appealed to Portugal and the international community to put an end to the indiscriminate shooting of civilians by the Indonesian military. The appeal followed the stepped-up Indonesian military activity in the Territory with the killing of two and the arrest of several East Timorese, as well as increased patrolling and detentions on the eve of the anniversary of the 1991 killings at the Santa Cruz cemetery in Dili. 35/

25. On 24 October 1995, Indonesian Religious Affairs Minister Tarmizi Taher reportedly called upon all East Timorese to work together "in order to jointly clear false religious issues". 36/ Later in October, according to media reports, the Minister travelled to the Holy See to discuss, inter alia, possible solutions to the situation in East Timor. 37/

26. According to press reports, on 12 November 1995, Indonesian police arrested three East Timorese in Dili for possession of anti-Indonesian materials and FRETILIN flags. 38/

27. In November 1995, Indonesian Minister/State Secretary Murdiono reportedly said that Indonesia would never retreat from its political decision on East Timor. 39/

28. It was reported that, on 24 November 1995, the Indonesian authorities announced that travel restrictions for foreigners wishing to visit East Timor had been lifted. 40/

29. In November 1995, a tense situation reportedly prevailed in East Timor in connection with the fourth anniversary of the 1991 killings at the Santa Cruz cemetery in Dili. The Indonesian authorities expelled nine persons from different countries who had arrived in Dili to commemorate the anniversary, and prevented another group of persons from various countries from boarding a flight from Bali to Dili. 41/

30. According to press reports, in December 1995, East Timorese resistance spokesman José Ramos Horta visited Fiji, where he met with government officials to discuss the question of East Timor. 42/

31. Press reports indicate that, in December 1995, two FRETILIN rebels surrendered to the Indonesian security forces. 43/

32. On 29 December 1995, The Jakarta Times attributed the following statement to the President of Indonesia: "There is no special status for East Timor ... Portuguese and anti-integration elements are trying to undermine our good image ... If other sides undermine the solution, we have to face them with patience and wisdom. There is no longer a referendum in East Timor." 44/

33. On 8 December 1995, East Timorese resistance leader José Ramos Horta met in Wellington with the Foreign Minister of New Zealand, Mr. Don McKinnon. Mr. McKinnon reportedly said that the meeting was part of New Zealand's policy "of listening to all points of view" and stated that his Government supported "the tripartite talks among the Indonesians, the Portuguese and the United Nations Secretary-General". Mr. Ramos Horta, upon the conclusion of the meeting, made the following statement: "The Minister did not make major comments, but he assured me that he will reflect and will do whatever New Zealand can in its traditional way in a discreet, non-confrontational form." 45/

34. In 1995, the European Parliament adopted a resolution on the situation in East Timor and on the twentieth anniversary of its invasion by Indonesia. The European Parliament, inter alia, reaffirmed its solidarity with the people of East Timor in its struggle for self-determination and condemned the illegal occupation of East Timor by Indonesia and the Indonesian military repressions in the Territory. It also demanded the release of all political prisoners, including "Xanana" Gusmão. The European Parliament supported the continuation of the ongoing negotiations between Indonesia and Portugal under the auspices of the Secretary-General of the United Nations and endorsed the conclusions and recommendations contained in the report of the United Nations High Commissioner for Human Rights. The European Parliament also called upon all its member States to put an end to all military assistance and arms sales to Indonesia and requested the European Union to suspend all forms of economic cooperation with

the Indonesian Government as long as the illegal occupation and repressions continued.

35. It was reported that, on 18 January 1996, a female FRETILIN member had surrendered to the Indonesian security authorities. 46/

36. Press reports indicate that, on 7 February 1996, a riot took place at the Dili correctional facility, resulting in the death of 1 inmate and injuries to 40 inmates and 5 police guards. It was also reported that 8 inmates had managed to escape from the correctional facility in the course of the riot. 47/

37. During the period under review, over 100 East Timorese reportedly seeking political asylum resorted to forceful entry of the embassies at Jakarta of the following countries: France, Japan, the Netherlands, Poland, the Russian Federation and the United Kingdom of Great Britain and Northern Ireland. In connection with those incidents the Indonesian authorities stated that those wishing to leave the country could do so. Many of those East Timorese subsequently left Indonesia for exile in Portugal. Those unable to leave the country were questioned by the police and released. In November 1995, a group of 27 East Timorese were apprehended by the Indonesian security forces when they were trying to leave Indonesia for Australia on a boat called the Tasi Diak and were detained at a police station in Dili on charges of alleged pro-independence and FRETILIN sympathies. 48/

38. Press reports indicate that, during 1995, 35 foreigners were expelled from East Timor by the Indonesian authorities for "security breaches". 49/ The head of the Dili Immigration Office, Mr. Sri Triswoyo, stated that four persons had been expelled for "taking photographs of an anti-Indonesian demonstration at the University of Dili" and 31 persons for "provocative activities" in connection with the commemoration of the fourth anniversary of the 1991 killings at the Santa Cruz cemetery in Dili. 50/

39. According to press reports, 51/ in March 1996, during the summit of 25 European and Asian leaders in Bangkok, the Prime Minister of Portugal, Mr. António Guterres, offered Indonesian President Soeharto a partial reopening of diplomatic relations on condition of the release of the imprisoned East Timorese resistance leader "Xanana" Gusmão. In a statement to the press of 1 March 1996, the Portuguese Prime Minister said: "Portugal would be ready to open an interests section in a friendly embassy in Jakarta and to accept an Indonesian interests section in a friendly embassy in Lisbon ... In exchange Indonesia should free 'Xanana' Gusmão and guarantee human rights in East Timor". Mr. Guterres further said that President Soeharto had neither accepted nor rejected the offer, but had agreed to discuss it at the United Nations-sponsored talks between the two countries. The same source also indicated that the Indonesian Foreign Minister, Mr. Ali Alatas, had on 1 March 1996 given a guarded welcome to Portugal's proposals and said that Indonesia would "look at the proposals and see in what context they had been made and not brush them off the table".

40. On 28 March 1996, the Prime Minister of Portugal was received by His Holiness John Paul II at the Holy See. After the meeting, Cardinal Angelo Sodano, the Secretary of State of the Holy See, stated the following:

"In future we shall be intensifying even further the presence of the Holy See in East Timor in order to show that community that they have not been forgotten. We are aware, as is the Portuguese Government, of the difficulties of their everyday life. But they know that they are not alone, as does Don Ximenes Belo and the Catholics of Timor. And we express our best wishes that more tranquil days may lie ahead of them." 52/

41. On 28 March 1996, two East Timorese were reportedly shot by the Indonesian military at Comor, near Dili airport. On 29 March 1996, demonstrations to protest those killings took place in Baucau. 53/

III. HUMAN RIGHTS SITUATION

42. A member of the Commission on Human Rights since 1991, Indonesia has repeatedly affirmed its commitment to international human rights principles.

43. During the period under review, Amnesty International issued three reports on the human rights situation in East Timor.

44. In a report of 15 January 1996 entitled "East Timor. The September and October 1995 Riots: Arbitrary Detention and Torture", Amnesty International stated that, during September-October 1995, East Timor had experienced the worst disturbances since 1994, resulting in damage to property and injuries sustained by rioters and police. The response by the authorities included arbitrary detention, beatings and torture. At least 300 people were arbitrarily detained in the wave of arrests which followed the riots. Most of the detained persons were released, but at least 43 are believed to be facing trial for their alleged involvement in the riots. In that connection, the organization stated that it did not condone the acts of violence which had occurred during the riots; however, it was concerned that the Indonesian security forces had used the riots as a pretext to arrest individuals involved in peaceful pro-independence activities and that those facing trial did not have full access to legal defence, thus having remote chances of a fair trial. The report also contained testimonies indicating that those detained during September-October 1995 had endured beatings and torture by the Indonesian security forces.

45. In its report of February 1996 entitled "Indonesia and East Timor: When will the Commission Take Action ...?", Amnesty International stated that torture and ill-treatment of detainees, disappearances, extrajudicial executions and the detention of political prisoners continued to exist in East Timor. The organization also emphasized that the functions and procedures of the National Commission on Human Rights established by the Indonesian Government were unclear and that its working methods and processes fell short of international standards.

46. The Amnesty International report of 13 December 1995 entitled "Women in Indonesia and East Timor: Standing against Repression" contains accounts of East Timorese women being subject to extrajudicial executions, disappearances, torture, arbitrary arrest, rape, sexual abuse, unfair trial and imprisonment for peaceful expression of opposition to the Government. The report states particularly that the provisions of the Convention on the Elimination of All

Forms of Discrimination against Women are not being implemented by the Indonesian Government.

47. According to press reports, President Bill Clinton of the United States of America raised his concerns regarding the human rights situation in East Timor with Indonesian President Soeharto at a meeting held in Washington on 26 October 1995. 54/ Earlier, a group of 28 United States Senators had urged President Clinton to discuss the question of East Timor with President Soeharto. In their letter dated 25 October 1995 addressed to President Clinton, the Senators had stated the following: "The tension in East Timor has been intensifying in the past year ... Violence in the Territory has been on the increase as well. It is in the spirit of the long United States-Indonesian friendship that we urge you to raise these concerns with President Soeharto." 55/

48. During his visit to East Timor in April 1995, the United States Assistant Secretary of State for Human Rights, Mr. John Shattuck, had reportedly stated the following: "The issue of the presence of military troops in East Timor in a fairly substantial number is certainly a major concern about the process of addressing this human rights question ... We encourage the Government to give the people of East Timor more influence over their local affairs, and to reduce the number of troops stationed there". He emphasized that the United States strongly favoured the creation of the opportunity for the East Timorese to participate in the decision-making process, including areas such as the economy and politics. 56/

49. The United States Department of State, in its annual report on human rights, 57/ stated that, during 1995, the Indonesian Government continued to commit serious human rights abuses, including "harsh repression of dissidents in East Timor". Troop levels remained unjustifiably high. The armed forces used excessive force in making arrests following anti-integration rioting in Dili in October. The Government reimposed restricted access to East Timor by foreign journalists. The report further refers to evidence of extrajudicial killings by the Indonesian security forces of a number of alleged armed opposition members in East Timor. The Indonesian Government withdrew two army battalions from East Timor in September, but there had been no noticeable decrease in military activity in the Territory; after the October riots in Dili, some anti-riot units were reinforced. The Government offered a general amnesty to members of the Timorese resistance who surrender their arms, and it was reported to have released some who had been apprehended. A similar policy was applied to several leaders of the Timorese clandestine political movement. There were credible reports that, in January 1995, security forces had abducted five civilians in Dili. At least five other persons disappeared in East Timor under circumstances suggesting possible involvement by the security forces. Torture increased in frequency beginning in November 1994, and included electric shocks, mock executions, severe beatings and burning with cigarettes. Military authorities continued the practice of detaining people without charges. Security agencies regularly made forced or surreptitious entries. They also engaged in intimidation through surveillance of persons and residences and selective monitoring of local and international telephone calls without legal restraint. Special permission continued to be required for foreign journalists to travel to East Timor; approvals for individual journalists to visit the Territory became more restrictive. There was an outbreak of religion-based violence in East

Timor in September and October 1995. Clashes in mid-October between security forces and groups of youths led to extensive damage, at least 2 deaths, and 151 arrests. The military sporadically carried out security checks affecting transportation and travel to and within East Timor and occasionally imposed curfews, in connection with military operations. The International Committee of the Red Cross (ICRC) continued to operate in East Timor and to visit East Timorese prisoners. Travel to East Timor by foreign human rights non-governmental organizations had not been approved. The government-appointed National Human Rights Commission became active in examining human rights violations. East Timorese expressed concerns that the transmigration programme could lead to fewer employment opportunities and might eventually destroy East Timor's cultural identity.

50. The United Nations High Commissioner for Human Rights visited Indonesia and East Timor from 3 to 7 December 1995. Pursuant to the Chairman's statement of the fifty-first session of the Commission on Human Rights on 1 March 1995, the High Commissioner on 14 March 1996 submitted a report on his visit. 58/

51. The Secretary-General of the United Nations submitted his most recent report on the situation of human rights in East Timor on 29 February 1996. 59/

IV. ECONOMIC, SOCIAL AND EDUCATIONAL CONDITIONS

52. In the absence of information submitted by the administering Power under Article 73 e of the Charter of the United Nations and for the reasons explained in paragraph 54 below, information on economic, social and educational conditions in the Territory has been derived from Indonesian press reports, which have described the prevailing conditions as follows:

(a) On 30 March 1996, Indonesian Defence and Security Minister Edi Sudrajat, on behalf of President Soeharto, presented the Territorial administration with a budget for the 1996/97 fiscal year totalling 170.063 billion rupiahs, a 6.08 per cent increase over the 1995/96 fiscal year. The expenditure would include, inter alia, the following: public works sector, Rp 58 billion; education and culture, Rp 31 billion; and agriculture, Rp 11 billion (Antara News Agency, 1 April 1996);

(b) In 1995, East Timor's per capita income equalled Rp 580,000, compared with Rp 494,503 in 1994. The agricultural sector accounted for 38.57 per cent of the GDP growth during 1995 (ibid., 2 January 1996);

(c) Approximately Rp 2.66 trillion is expected to be invested in East Timor during the sixth five-year development plan (Repelita VI) in order to maintain the 10.42 per cent rate of economic growth that had been achieved during Repelita V. The Indonesian Ministry for Investment approved for 1996 12 investment projects for a total cost of Rp 283.63 billion, which could create an additional 28,995 jobs. The Ministry would also concentrate on measures aiming at enhancing the role of the private sector in the Territory (ibid., 19 August 1995);

(d) On 4 August 1995, the Governor of East Timor unveiled 1,319 development projects to be completed in the Territory during the 1996/97 financial year. The cost of the projects was reported to total Rp 409 billion. The Governor also emphasized that the development projects that had been undertaken in East Timor during the last 19 years lacked qualitative aspects (Kompas, 7 August 1995);

(e) In September 1995, the exports of coffee to Singapore started to originate from Dili (Suara Pembaharuan, 21 August 1995);

(f) In February 1996, Mr. Lawrence T. Dickenson, Canadian Ambassador to Indonesia, announced the following new community development projects to be funded by the Canada Fund for Local Initiative: an integrated agricultural development scheme in Lisadila village of Liquiça Regency, Rp 31.175 million; a leprosy polyclinic in Kota Barn, Baucau, Rp 30 million; and a rice cultivation and fish breeding project in Beco, Suai, Rp 13.2 million. The Canadian Fund for Local Initiatives also will fund other small-scale projects in East Timor for the total cost of Rp 1.44 billion (Antara News Agency, 27 February 1996);

(g) In 1996, the construction of the first sugar mill in East Timor will be completed. The mill would produce 40,000 tons of sugar per year. The cost of the project is estimated at Rp 58 billion. The equipment for the mill, estimated at Rp 27 billion, is being imported from China (ibid., 13 December 1995);

(h) In December 1995, an additional 6,000 tons of rice was supplied by Indonesia to East Timor in anticipation of a possible rice scarcity in the Territory at Christmas time. In addition, the Territorial officials procured additional beef, refined sugar and wheat flour to be distributed in East Timor at the holiday season (ibid., 2 December 1995).

V. CONSIDERATION BY THE UNITED NATIONS 60/

53. Between 1961 and 1982, the General Assembly annually reviewed the question of East Timor and adopted resolutions on the basis of reports submitted by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. 61/ Since its thirty-eighth session, the General Assembly has deferred consideration of the item. 62/

54. Since 1977, the Government of Portugal, in its capacity as administering Power of East Timor, has annually informed the Secretary-General that, owing to conditions prevailing in the Territory, namely, the presence of armed forces of Indonesia, it has been de facto prevented from transmitting any information concerning East Timor under Article 73 e of the Charter. 63/

55. At its thirty-seventh session, by resolution 37/30 of 23 November 1982, the General Assembly requested the Secretary-General to initiate consultations with all parties directly concerned, with a view to exploring avenues for achieving a comprehensive settlement of the problem, and to report to the Assembly at its thirty-eighth session. The Assembly requested the Special Committee to keep the

situation in the Territory under active consideration and to render all assistance to the Secretary-General to facilitate implementation of the resolution.

56. Since 1983, the Secretary-General has kept the General Assembly regularly apprised of developments related to the exercise of his good offices. 64/ His most recent progress report, submitted to the Assembly at its fiftieth session, is contained in document A/50/436.

57. The Secretary-General held the seventh round of discussions with the Foreign Ministers of Indonesia and Portugal in London on 16 January 1996. The following communiqué was issued on the same date at the conclusion of the talks:

> "1. The Secretary-General held the seventh round of talks on the question of East Timor in London on Tuesday, 16 January 1996, with the Foreign Minister of Portugal, Mr. Jaime Gama, and the Foreign Minister of Indonesia, Mr. Ali Alatas.
>
> "2. The Ministers discussed developments since the sixth round of talks in July 1995 and, in this connection, welcomed the visit of the United Nations High Commissioner for Human Rights, Mr. José Ayala Lasso, to Jakarta and East Timor in December 1995 in the context of the implementation of the Chairman's Statement adopted by consensus in 1995 by the Human Rights Commission, the importance of which was recognized.
>
> "3. The Ministers, without prejudice to their respective positions of principle regarding the political status of East Timor, continued their discussions on those substantive issues which have been identified related to an eventual framework for the achievement of a just, comprehensive and internationally acceptable solution to the question of East Timor as well as other related issues, inter alia, the preservation and promotion of the cultural identity of the East Timorese people and bilateral relations between Indonesia and Portugal.
>
> "4. The Ministers took note positively of the Secretary-General's intention to facilitate and offer the necessary arrangements for another meeting of the all-inclusive intra-East Timorese dialogue in accordance with the same terms of reference agreed at the fifth round of talks, which will take place in Austria in March 1996.
>
> "5. Following today's discussions, the parties agreed to continue their efforts, with the assistance of the Secretary-General, to find a just, comprehensive and internationally acceptable settlement to the question of East Timor. The eighth round of talks between the Foreign Ministers under the auspices of the Secretary-General will be held at Geneva on 29 June 1996. In the interval, talks will continue at the permanent representative level with the participation of the representative of the Secretary-General."

58. On 22 March 1996, the United Nations Information Service in Vienna issued the following press release: 65/

"Concluding an all-inclusive intra-East Timorese dialogue at Schlaining castle, Austria, today, 29 East Timorese, representing a broad cross-section of political opinion from inside and outside the Territory, called for a continuation of the discussion, which was initiated by the Secretary-General in connection with his efforts to resolve the question of East Timor.

"In a signed declaration, participants noted the 'positive atmosphere' that had prevailed during the dialogue and expressed interest and readiness to continue the sessions in the same framework in order to consider practical measures conducive to settling the question of East Timor.

"Adopted by consensus, the declaration expresses interest in the establishment of an East Timorese cultural centre in Dili to research the culture, language, customs and tradition of the Territory. It welcomes Portugal's support for East Timor University as well as practical training for East Timorese youth and proposes that Indonesia provide further opportunities for East Timorese to have a greater role in the administration of the Territory.

"The 1996 Burg Schlaining Declaration pays special tribute to the 'invaluable role' of the Catholic Church in East Timor and its positive cooperation with other religions.

"Facilitated by the United Nations, the intra-East Timorese dialogue served to explore practical ideas that could have a positive impact on the situation in East Timor and assist in creating a conducive atmosphere for a solution of that question. The Government of Austria provided meeting facilities and accommodation for all participants. A number of other Governments also extended financial support to this initiative."

59. It will be recalled that, on 22 February 1991, the Government of the Portuguese Republic filed in the Registry of the International Court of Justice an application instituting proceedings against the Commonwealth of Australia in a dispute concerning "certain activities of Australia with respect to East Timor". 66/ On 30 June 1995, at a public sitting, the International Court of Justice delivered its judgment. Emphasizing "that, for two Parties, the Territory of East Timor remains a Non-Self-Governing Territory and its people has the right to self-determination", the Court found as follows:

"THE COURT,

"By 14 votes to 2,

"Finds that it cannot in the present case exercise the jurisdiction conferred upon it by the declarations made by the Parties under Article 36, paragraph 2, of its Statute to adjudicate upon the dispute referred to it by the Application of the Portuguese Republic." 67/

60. During the general debate at the fiftieth session of the General Assembly, the representatives of Mozambique (A/50/PV.18), Guinea-Bissau (A/50/PV.9),

Portugal (A/50/PV.6, 7, 36) and Indonesia (A/50/PV.7) referred to the question of East Timor in their statements.

61. In the general debate in the Third Committee, the representative of Spain (on behalf of the European Union) and Norway referred to the question of East Timor.

62. In the general debate in the Special Political and Decolonization Committee (Fourth Committee), several representatives made reference to the question of East Timor under the agenda item entitled "Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples": Brazil (A/C.4/50/SR.5); Ecuador (on behalf of the Rio Group) (A/C.4/50/SR.5); Portugal (A/C.4/50/SR.6); and Uruguay (A/C.4/50/SR.5).

63. The Special Committee considered the question of East Timor at its 1443rd to 1446th meetings, from 11 to 13 July 1995. During those meetings the Committee heard statements by the representatives of Sao Tome and Principe (on behalf also of Angola, Cape Verde, Guinea-Bissau and Mozambique); Portugal, as the administering Power; Papua New Guinea and Indonesia (A/AC.109/PV.1446); as well as by 32 petitioners. At its 1446th meeting, on 13 July 1995, the Special Committee decided to continue consideration of the item at its 1996 session subject to any directions which the General Assembly might give in that connection at its fiftieth session (ibid.).

64. The question of East Timor was considered by the United Nations Subcommission for Prevention of Discrimination and Protection of Minorities at its 4th and 7th meetings, held on 2 and 4 August 1994 respectively. The documents pertaining to that consideration are listed below:

(a) Question of violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories. Report of the Subcommission under Commission on Human Rights resolution 8(XXIII). Written statement submitted by Pax Romana (E/CN.4/Sub.2/NGO/20);

(b) Summary record of the fourth meeting, held at the Palais des Nations, Geneva, on Wednesday, 2 August 1995. Commission on Human Rights, Subcommission on Prevention of Discrimination and Protection of Minorities, forty-seventh session (E/CN.4/Sub.2/1995/SR.4);

(c) Summary record of the seventh meeting, held at the Palais des Nations, Geneva, on Friday, 4 August 1995. Commission on Human Rights, Subcommission on Prevention of Discrimination and Protection of Minorities, forty-seventh session (E/CN.4/Sub.2/SR.7).

65. The question of East Timor was subsequently considered by the United Nations Commission on Human Rights. The documents pertaining to that consideration are listed below:

(a) Draft report of the Commission on Human Rights, fifty-second session (E/CN.4/1996/L.10/Add.10);

(b) Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories. Written statement submitted by Pax Christi International (E/CN.4/1996/NGO/80);

(c) Organization of the work of the session. Follow-up to the World Conference on Human Rights. "Making human rights a reality". Report of the United Nations High Commissioner for Human Rights (E/CN.4/1996/103);

(d) Organization of the work of the session. Follow-up to the World Conference on Human Rights. Report of the United Nations High Commissioner for Human Rights on his visit to Indonesia and East Timor, 3-7 December 1995 (E/CN.4/1996/112);

(e) Letter dated 12 April 1996 from the Permanent Mission of Indonesia to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights (E/CN.4/1996/165);

(f) Situation in East Timor: report of the Secretary-General (E/CN.4/1996/56).

66. On 10 April 1996, the Chairman of the Commission on Human Rights read out the following statement:

"Following consultations, I would like to make a statement announcing what has been agreed by consensus by the Commission on the situation of human rights in East Timor.

"The Commission on Human Rights discussed the human rights situation in East Timor.

"The Commission continues to follow with deep concern the reports on violations of human rights in East Timor.

"The Commission recalls the undertakings by the Government of Indonesia to promote human rights in East Timor and those contained in Chairman's Statements at previous sessions on the matter. The Commission stresses the need to take further steps towards their implementation, including the early release of the East Timorese detained or convicted and the further clarification on the circumstances surrounding the Dili incident of 1991.

"The Commission notes with satisfaction the greater access recently granted by the Indonesian authorities to international media and humanitarian organizations and trusts that it will be expanded further to human rights organizations.

"The Commission welcomes the visit to East Timor of the Office of the United Nations High Commissioner for Human Rights, Mr. José Ayala Lasso, on 6 December 1995, and stresses the importance of this visit in the context of last year's Chairman's Statement. The Commission notes with satisfaction the understanding reached between the Indonesian authorities

and the High Commissioner concerning the upgrading of the current Memorandum of Interest on technical cooperation in the field of human rights, signed at Jakarta on 26 October 1994, into a Memorandum of Understanding. In this context, it was also provisionally agreed to look into the possibility of the High Commissioner assigning a programme officer within the office of the United Nations Development Programme (UNDP) in Jakarta in order to follow up the implementation of the technical cooperation agreement. This officer would also have regular access to East Timor.

"The Commission welcomes the intention of the Government of Indonesia to continue to cooperate with the Commission on Human Rights and its mechanisms as well as its intention to invite a thematic rapporteur in 1997.

"The Commission welcomes the result of the seventh round of the tripartite dialogue between the Foreign Ministers of Indonesia and Portugal under the auspices of the Secretary-General of the United Nations on the question of East Timor held in London on 16 January 1996 and encourages the Secretary-General to continue his good offices for achieving a just, comprehensive and internationally acceptable solution to the question of East Timor.

"The Commission welcomes the informal bilateral meeting between President Soeharto and Prime Minister Guterres during the Asia-Europe Meeting (ASEM) in Bangkok on 19 February 1996 and expresses the hope that it will contribute positively to the ongoing tripartite dialogue. The Commission also welcomes the holding of the all-inclusive intra-East Timorese dialogue at Schlaining castle, Austria, from 19 to 22 March 1996.

"The Commission requests the Secretary-General to keep it informed on the situation of human rights in East Timor and will consider the question at its fifty-third session."

Notes

1/ World Population Prospects: The 1994 Revision (United Nations publication, Sales No. E.95.XIII.16).

2/ Reuters, 20 July 1995.

3/ Ibid., 16 July 1995.

4/ Ibid., 25 July 1995.

5/ The Jakarta Post, 29 June 1995.

6/ Reuters, 4 July 1995.

7/ Ibid., 5 and 6 September 1995.

8/ The Indonesian Observer, 27 December 1995; Reuters, 26 December 1995.

9/ Agence France-Presse, 23 August 1995.

10/ Reuters, 7 July 1995.

11/ United Press International, 27 July 1995; Reuters, 25 July 1995.

12/ Reuters, 30 July 1995.

13/ United Press International, 17 July 1995.

14/ Reuters, 16 August 1995.

15/ Ibid., 19 August 1995.

16/ Ibid., 31 August 1995.

17/ Ibid., 2 September 1995; The Jakarta Post, 2 September 1995.

18/ Ibid., 24 September 1995.

19/ The Jakarta Post, 27 and 29 September 1995.

20/ Ibid., 29 September 1995.

21/ Reuters, 26 September 1995.

22/ The Indonesian Times, 21 September 1995; Reuters, 21 and 22 September 1995.

23/ Reuters, 19 September 1995.

24/ The Jakarta Post, 15 September 1995.

25/ The Indonesian Observer, 15 September 1995.

26/ The Jakarta Post, 16 September 1995.

27/ Reuters, 5 and 6 September 1995.

28/ Ibid., 7 October 1995.

29/ United Press International, 10 October 1995.

30/ Agence France-Presse, 12 October 1995; Reuters, 12 October 1995.

31/ Reuters, 12 October 1995; United Press International, 12 October 1995.

32/ Ibid., 12 and 13 October 1995.

33/ Ibid., 12 October 1995; Agence France-Presse, 13 October 1995.

34/ Reuters, 20 October 1995.

35/ Público (Lisbon), 12 and 13 October 1995; Diário de Notícias (Lisbon), 12 and 13 October 1995; Expresso (Lisbon), 14 October 1995.

36/ Agence France-Presse, 24 October 1995.

37/ Reuters, 21 October 1995.

38/ Agence France-Presse, 14 November 1995.

39/ Reuters, 27 November 1995.

40/ Ibid., 24 November 1995.

41/ Agence France-Presse, 9 November 1995.

42/ Ibid., 4 December 1995.

43/ The Jakarta Post, 29 December 1995.

44/ The Jakarta Times, 29 December 1995.

45/ Agence France-Presse, 8 December 1995.

46/ The Jakarta Post, 8 February 1996.

47/ Reuters, 8 and 9 February 1996.

48/ Ibid., 7-9, 11, 16, 19, 21, 24 and 25 November 1995, 11 March 1996; Agence France-Presse, 1, 8-10, 13, 15, 16, 18, 19, 21, 28 November 1995; Público (Lisbon), 7-11, 13, 14, 16, 17, 19, 21, 24, 27 November 1995; Expresso (Lisbon), 8, 10, 13, 16, 17, 24, 26 November 1995; Diário de Notícias (Lisbon), 8, 9, 13, 17, 20, 24 November 1995.

49/ Agence France-Presse, 8 December 1995.

50/ Reuters, 1 February 1996.

51/ Ibid., 1 March 1996.

52/ BBC Summary of World Broadcasts, 20 March 1996.

53/ Reuters, 1 April 1996.

54/ Ibid., 27 October 1995.

55/ Ibid., 25 October 1995.

56/ Ibid., 20 April 1995.

57/ United States Department of State, Country Reports on Human Rights Practice for 1993 (Washington, D.C., February 1995).

58/ E/CN.4/1996/12.

59/ E/CN.4/1996/56.

60/ For details, see corresponding sections of the previous working papers prepared by the Secretariat (A/AC.109/L.1328 and A/AC.109/623, 663, 715, 747, 783, 836, 871, 919, 961, 1001, 1115, 1154, 1187 and 2026).

61/ See General Assembly resolutions 1699 (XVI), 1807 (XVII), 1913 (XVIII), 2107 (XX), 2184 (XXI), 2395 (XXIII), 2507 (XXIV), 2707 (XXV), 2795 (XXVI), 2918 (XXVII), 3113 (XXVIII), 3294 (XXIX), 3485 (XXX) and 31/53, relating to the question of Territories under Portuguese administration, including East Timor; see also Assembly resolutions 32/34, 33/39, 34/40, 35/27, 36/50 and 37/30 on the question of East Timor.

62/ General Assembly decisions 38/402, 39/402, 40/402, 43/402 and 46/402; see also A/41/PV.3, A/44/PV.3, A/45/PV.3, A/47/PV.3, A/48/130, A/49/402 and A/50/402.

63/ See A/35/233, A/37/160, A/37/125, A/39/136, A/40/159, A/41/190, A/42/171, A/43/219, A/44/262, A/45/172, A/46/131, A/47/189, A/48/130, A/49/184 and A/50/214. Owing to a lack of information from the administering Power, the information contained in the present working paper has been derived from other sources.

64/ A/38/352, A/39/361, A/40/622, A/41/602, A/42/539, A/43/588, A/44/529, A/45/507, A/46/456, A/48/418 and A/49/391; see also Boutros Boutros-Ghali, Secretary-General of the United Nations. Confronting New Challenges - 1995. Report on the Work of the Organization from the Forty-ninth to the Fiftieth Session of the General Assembly (United Nations publication, Sales No. E.95.I.47), paras. 662-665.

65/ Press release SG/2021.

66/ Official Records of the General Assembly, Fiftieth Session, Supplement No. 4 (A/50/4), para. 36.

67/ Detailed information related to the case is contained in: (a) East Timor (Portugal v. Australia), Judgment, I.C.J. Reports 1995, p. 90; see also ICJ, Reports of Judgments, Advisory Opinions and Orders, Case concerning East Timor (Portugal v. Australia) (Sales No. 661); and (b) Official Records of the General Assembly, Fiftieth Session, Supplement No. 4 (A/50/4), paras. 36-46.